



Department of Justice

FOR IMMEDIATE RELEASE
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**JUSTICE DEPARTMENT ALLOWS GROUP OF ATTORNEYS TO PROVIDE LEGAL
REPRESENTATION TO CONSTRUCTION INDUSTRY CLIENTS
ON A REFUNDABLE FLAT FEE BASIS**

WASHINGTON, D.C. -- A group of 17 attorneys, who practice in 13 different cities, will be allowed to offer legal representation to construction industry clients on a refundable flat fee basis, under a proposal cleared today by the Department of Justice.

The 17 attorney's proposal responded to concerns expressed by some in the construction industry that traditional legal fee arrangements create incentives for attorneys to prolong and intensify disputes. In it, the attorneys sought to provide legal services for a refundable flat fee where each participant in a construction project is represented by a member of the group who has agreed to represent its client on a refundable flat fee basis. The fees would be refundable in full if, at either client's discretion, litigation or arbitration was necessary to resolve disputed issues. As a result, each attorney would know that all other counsel had the same incentives to resolve disputes by means other than litigation or arbitration.

In considering the plan, the Antitrust Division noted that the group contained only 17 of the several thousands of attorneys who represent construction industry clients in this country, each participating attorney would remain free to negotiate his/her own flat fee, and each attorney would be allowed to withdraw from the group or to join other joint selling programs while remaining a member of the group. Recognizing these factors, Joel I. Klein, Acting Assistant Attorney General in charge of the Antitrust Division, said that "the proposed conduct does not raise any competitive concerns."

Klein also stated that "to the extent that utilization of a returnable flat fee structure reduces legal costs...construction industry participants will secure benefits without having to sacrifice any competitive options."

The Department's position was stated in a business review letter from Klein to counsel for the group.

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Suite 215, Liberty Place, 325 7th

Street, N.W., Department of Justice, Washington, D.C. 20004.

After a 30-day period, the documents supporting the business review will be added to the file.

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